

REMARKS

Applicant respectfully requests reconsideration and allowance of the subject application. **Claims 1-39** are pending.

Section 131 Declaration

Applicant submits herewith a supplemental affidavit to the earlier filed declaration under 37 C.F.R. §1.131.

The supplemental affidavit is provided to address the Office's response in the office action of April 8, 2003 that the earlier filed declaration is ineffective to overcome the reference U.S. Patent No. 6,219,653 B1 to O'Neill et al (hereinafter, "O'Neill"). In particular the Office points out that there is no evidence to show due diligence between the September 15, 1998 filing date of O'Neill and the applicant's April 5, 1999 filing date.

In a telephone conversation between Examiner Blair and Emmanuel A. Rivera on May 15, 2003, Examiner Blair was asked what was needed to show due diligence between the September 15, 1998 filing date of O'Neill and the applicant's April 5, 1999 filing date. Examiner Blair's response was that a supplemental affidavit listing activities supporting due diligence and signed by a party familiar with the activities would be sufficient. Further the supplemental affidavit should state that the supporting documentation that was provided with the earlier declaration was not publicly disclosed prior to the filing date of April 5, 1999 of the subject application.

Applicants submit a supplemental affidavit listing activities that show due diligence and signed by Lewis C. Lee, outside counsel that filed the subject application. Accordingly, the O'Neill reference should be removed as a reference because it is not prior art.

1 **35 U.S.C. § 102**

2 **Claims 1, 3, and 8** are rejected under 35 U.S.C. 102(e) as being anticipated
3 by O'Neill. In view of the §131 declaration and the supplemental affidavit, the
4 O'Neill reference is removed as prior art. Applicants respectfully request
5 withdrawal of the §102 rejection.
6

7 **35 U.S.C. §103**

8 **Claims 2, 4-7, 9-39** are rejected under 35 U.S.C. §103(a) as being
9 unpatentable over O'Neill in view of Official Notice. In view of the §131
10 declaration and the supplemental affidavit, the O'Neill reference is removed as
11 prior art. Applicants respectfully request withdrawal of the §103 rejection.
12

13 **CONCLUSION**

14 All pending **claims 1-39** are in condition for allowance. Applicant
15 respectfully requests reconsideration and prompt issuance of the subject
16 application. If any issues remain that prevent issuance of this application, the
17 Examiner is urged to contact the undersigned attorney before issuing a subsequent
18 Action.
19

20 Respectfully Submitted,

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22 Dated: 6/17/03

21 By: 
22 _____

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